

BILL LOCKYER, Attorney General
of the State of California
GAIL M. HEPPELL
Supervising Deputy Attorney General
DANIEL J. TURNER, State Bar No. 79560
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, California 94244-2550
Telephone: (916) 323-7861
Facsimile: (916) 327-2247

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DONALD LEE ZIMMERMAN
15630 Mills Drive
Visalia, CA 93292

License No. PT 5959,

Respondent.

Case No. 1D 1998 62021

OAH No. N-2001090060

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to
the above-entitled proceedings that the following matters are true:

PARTIES

1. Steven K. Hartzell ("Complainant") is the Executive Officer of the
Physical Therapy Board of California. He brought this action solely in his official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by Daniel
J. Turner, Deputy Attorney General.

2. Respondent Donald Lee Zimmerman ("Respondent") is represented in this
proceeding by attorney Ralph B. Jordan, Esq., whose address is Williams, Jordan & Brodersen,
2222 West Main Street, Visalia, CA 93291.

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3. On or about January 28, 1972, the Physical Therapy Board of California issued License No. PT 5959 to Donald Lee Zimmerman. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 1D 1998 62021 and will expire on September 30, 2003, unless renewed.

JURISDICTION

4. Accusation No. 1D 1998 62021 was filed before the Physical Therapy Board of California of the Department of Consumer Affairs (“Board”) and is currently pending against Respondent. The Accusation, together with all other statutorily required documents were properly served on Respondent on May 18, 2001, and Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1D 1998 62021 is attached as “Exhibit A” and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1D 1998 62021. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits to the truth of the charge in the Second Cause for Discipline in Accusation No. 1D 1998 62021 in that he violated Business and Professions Code

1 section 2660(j), as described in paragraphs 8.A. through 8.L.

2 9. Respondent agrees that his Physical Therapy License is subject to
3 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
4 Disciplinary Order below.

5 **CONTINGENCY**

6 10. This stipulation shall be subject to approval by the Board. Respondent
7 understands and agrees that the Physical Therapy Board of California's staff and counsel for
8 Complainant may communicate directly with the Board regarding this stipulation and settlement,
9 without notice to or participation by Respondent or his counsel. By signing the stipulation,
10 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind
11 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
12 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
13 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
14 between the parties, and the Board shall not be disqualified from further action by having
15 considered this matter.

16 11. The parties understand and agree that facsimile copies of this Stipulated
17 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
18 force and effect as the originals.

19 12. In consideration of the foregoing admissions and stipulations, the parties
20 agree that the Board may, without further notice or formal proceeding, issue and enter the
21 following Disciplinary Order:

22 **DISCIPLINARY ORDER**

23 **IT IS HEREBY ORDERED** that License No. PT 5959 issued to Respondent
24 Donald Lee Zimmerman is revoked. However, the revocation is stayed and Respondent is placed
25 on probation for five (5) years on the following terms and conditions.

26 1. **LICENSE SUSPENSION** As part of probation, respondent's license shall
27 be suspended for fourteen (14) consecutive calendar days. The suspension shall be served and
28 completed within the first six (6) months following the effective date of this decision.

1 Respondent shall provide the Board with at least 15 days written notice as to when his
2 suspension will begin.

3 2. RESTRICTION OF PRACTICE - MONITORING Within 30 days of the
4 effective date of this decision, respondent shall submit to the Board or its designee for its prior
5 approval the name of an individual or Physical Therapist, licensed by the State of California, for
6 the purpose of monitoring respondent's compliance with the law and who shall provide periodic
7 reports to the Board or its designee. If the monitor resigns or is no longer available, respondent
8 shall, within 10 days, move to have a new monitor appointed, through nomination by respondent
9 and approval by the Board or its designee.

10 3. NOTIFICATION TO PATIENTS The respondent shall notify all current
11 and potential patients of any term or condition of probation which will affect their treatment or
12 the confidentiality of their records (such as a condition for a practice monitor). Such notification
13 shall be signed and dated by each patient prior to the commencement or continuation of any
14 examination or treatment of each patient by the respondent and a copy of such notification shall
15 be maintained in the patient's record.

16 4. COMMUNITY SERVICES The respondent shall be required to provide
17 350 hours of community service within three (3) years following the effective date of this
18 decision without compensation within the State of California as part of the probation. The
19 respondent shall submit for prior approval a community service program to the Board or its
20 designee.

21 5. COST RECOVERY The respondent is ordered to reimburse the Board the
22 actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount
23 of \$2400.00. Reimbursement payments shall begin within 30 days from the effective date of the
24 decision in the amount of \$100.00 per month for twenty-four (24) months. Failure to make the
25 ordered reimbursement, or the agreed upon payments, may constitute a violation of the probation
26 order. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility
27 to reimburse the Division for its investigative and prosecution costs.

28 6. OBEY ALL LAWS Respondent shall obey all federal, state and local

laws, and statutes and regulations governing the practice of physical therapy in California.

7. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be in compliance with any valid order of a court. Being found in contempt of any court may constitute a violation of probation.

8. QUARTERLY REPORTS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

9. PROBATION MONITORING PROGRAM COMPLIANCE Respondent shall comply with the Board's probation monitoring program.

10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice.

11. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The respondent shall notify the Board, in writing, of any and all changes of name or address within ten (10) days.

12. WORK OF LESS THAN 20 HOURS PER WEEK If the respondent works less than 192 hours in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The respondent shall notify the Board if he works less than 192 hours in a three month period.

13. TOLLING OF PROBATION The period of probation shall run only during the time respondent is practicing within the jurisdiction of California. If, during probation, respondent does not practice within the jurisdiction of California, respondent is required to immediately notify the probation monitor in writing of the date that respondent's practice is out of state, and the date of return, if any. Practice by the respondent in California prior to notification to the Board of the respondent's return will not be credited toward completion of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled.

14. VIOLATION OF PROBATION If respondent violates probation in any

1 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke
2 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
3 revoke probation is filed against respondent during probation, the Board shall have continuing
4 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
5 is final.

6 15. CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR
7 OTHER REASONS Following the effective date of this probation, if respondent ceases
8 practicing physical therapy due to retirement, health or other reasons, respondent may request to
9 surrender his license to the Board. The Board reserves the right to evaluate the respondent's
10 request and to exercise its discretion whether to grant the request or to take any other action
11 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the
12 tendered license, the terms and conditions of probation shall be tolled until such time as the
13 license is no longer renewable, the respondent makes application for the renewal of the tendered
14 license or makes application for a new license.

15 16. COMPLETION OF PROBATION Upon successful completion of
16 probation, respondent's license or approval shall be fully restored.

17 ACCEPTANCE

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and
19 have fully discussed it with my attorney, Ralph B. Jordan, Esq.. I understand the stipulation and
20 the effect it will have on my License. I enter into this Stipulated Settlement and Disciplinary
21 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
22 of the Physical Therapy Board of California.

23 DATED: 01/15/03.

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25 Original Signed By:
26 DONALD LEE ZIMMERMAN
 Respondent

27 I concur with this stipulated settlement.

28 DATED: 01/20/03.

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Original Signed By:
RALPH B. JORDAN, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

DATED: 02/26/03.

BILL LOCKYER, Attorney General
of the State of California

Original Signed By:
DANIEL J. TURNER
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03575160-SA2001AD0296
Stipulation 7/11/01

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OAH No. N-2001090060

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California of the Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 05, 2003.

It is so ORDERED April 03, 2003.

Original Signed By: Ellen Wilson, P.T., President
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A
Accusation No. 1D 1998 62021